

July 12, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Meeting, WC Docket Nos. 04-36, 05-196, 04-29, and 04-440

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("FCC") Rules, this letter serves to provide notice in the above-captioned proceedings of *ex parte* meetings. On July 11, 2005, the undersigned accompanied Mr. Jason P. Talley, Chief Executive Officer, Mr. Noah K. Wood, Chief Technical Officer, and Chris D. Bramhall, Chief Operating Officer, all of Nuvio Corporation ("Nuvio"), to meet with the following people: Commissioner Kathleen Abernathy and Russell Hanser, Legal Advisor to Commissioner Abernathy, Commissioner Jonathan Adelstein and Scott Bergmann, Legal Advisor to Commissioner Adelstein, Michelle Carey, Legal Advisor to Chairman Martin, and Jessica Rosenworcel, Legal Advisor to Commissioner Copps. Meetings were also held with the following individuals from the Wireline Competition Bureau: Nicholas Alexander, Christi Shewman, Carol Simpson, and Tim Stelzig.

In the above-referenced *ex parte* meetings, Nuvio discussed the 30-day implementation requirements of the Voice over Internet Protocol ("VoIP") E-911 Order,¹ and the company's concern over receiving affirmative acknowledgements from 100% of its customers by the July 29, 2005 deadline. Further, Nuvio discussed customer notification requirements as they apply to IP-PBX business customers. Nuvio also discussed its implementation plan to meet the 30-day obligations set out in the Order.

Additionally, Nuvio expressed its concerns over the Commission's November 28, 2005 deadline to have an E-911 solution in place. Nuvio explained that, similar to many other if not all VoIP service providers, Nuvio will rely on the efforts of third parties to implement the Commission's requirements. As such, Nuvio and the VoIP industry at large are completely

¹ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 04-35 & 05-196, FCC 05-116 (rel. June 3, 2005).

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reliant on the efforts of others in varying degrees. To this end, Nuvio has been attempting to contact Intrado to determine when a solution may be in place for the Company to utilize in order to provision an E-911 service to its customer base. Nuvio has received only a verbal commitment that before the November 28, 2005 deadline, Intrado will have a solution in place for the "top major metropolitan areas." Of course, even if such a solution is put in place and VoIP service providers are able to implement such a solution prior to the Commission's deadline, this would fall far short of the obligations imposed by the Commission in the VoIP E-911 Order. Nuvio also explained that the Company intended to assess the feasibility and investigate deploying its own E-911 solution in discrete geographic areas.

Finally, Nuvio expressed its concern over the Supreme Court decision in *NCTA v. Brand X*, and specifically noted that network neutrality principles would be implicated if the Commission grants either BellSouth's or Verizon's pending forbearance petitions.

Pursuant the Commission's Rules, this letter is being submitted electronically for filing in the above-referenced proceeding.

Sincerely,

/s/
Ronald W. Del Sesto, Jr.

Counsel for Nuvio Corporation

cc: Commissioner Kathleen Abernathy
Commissioner Jonathan Adelstein
Scott Bergmann
Michelle Carey
Russell Hanser
Jessica Rosenworcel
Nicholas Alexander
Christi Shewman
Carol Simpson
Tim Stelzig
Julie Veach